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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/522,936

12/08/2005

Mache Ranginui Austin

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23908 7590 08/04/2009  
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EXAMINER

PATEL, TAJASH D

ART UNIT

PAPER NUMBER

3765

MAIL DATE

DELIVERY MODE

08/04/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/522,936	<b>Applicant(s)</b> AUSTIN ET AL.	
	<b>Examiner</b> Tejash D. Patel	<b>Art Unit</b> 3765	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10 and 13 is/are rejected.
- 7) ☒ Claim(s) 4, 5, 11 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 3, 6 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kibbee (US 6,182,288) in view of Floyd (US 7,490,361). Kibbee discloses a clothing article/vest (10a) including at least one rear portion being separate from but attachable to at least one front portion by a strap (34) having at least one attachment means of hook and loop material as shown in figure 1. Additionally, a belt (50a) is attached to a lower portion of the clothing article as shown in figures 1 and 1a. The vest defines separate left and right front portions connected by releasable attachment (24) with each having a shoulder and a waist portion as shown in figure 1. Also, the strap is provided on each left and right front side portions that is releasably attachable to respective sides of the back portions which is a unitary portion as shown in figure 1a. Kibbee discloses the invention as set forth above except for showing left and right front portions being releasable attachable to one another.

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Floyd discloses a vest with front and rear panels that are each attachable about the shoulders and waist with the front panel defining left and right front portions that are releasable attachable to one another by zipper (47), col. 5, lines 61-67 and as shown in figures 1 and 2.

It would have been obvious to one skilled in the art at the time the invention was made to form the front panel of Kibbee with left and right portions that are releasable attachable to one another so that the user does not have to readjust the vest about the shoulder and waist each time the garment is worn.

4. Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kibbee in view of Floyd and Puco et al. (US 5,909,802). Kibbee discloses the invention as set forth above except for showing a harness associated with a lumbar support belt and having a hydration system.

Puco et al. (hereinafter Puco) discloses a vest (10) including a harness (48) associated with a lumbar support belt (50) that includes an attachment buckle means and has pockets (100) as shown in figure 1.

It would have been obvious to one skilled in the art at the time the invention was made to provide the vest of Kibbee in view of Floyd with a harness associated with a lumbar support belt as taught by Puco so that weight carried by the vest is uniformly distributed or depending on the end use thereof.

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Further, it is obvious that the vest of Kibbee when viewed with Floyd is provided with a pocket as taught by Puco that is capable of holding a water bottle/hydration system, etc as required for a particular application or end use thereof.

***Response to Amendment***

5. The amendment and arguments filed on April 22, 2009 has been considered. In view of such, the amendment has necessitated this office action is being made FINAL

***Allowable Subject Matter***

6. Claims 4-5 and 11-12 are allowable because the prior art does not teach or suggest the recitation therein including a vest having an attachment device with a angled spring plate which is removable from a bore of a locking portion attached to the vest.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tejash Patel whose telephone number is (571) 272-4993. The examiner's supervisor can be reached at (571) 272-4996. The fax phone number for this group is (571) 273-8300.

July 30, 2009

/Tejash Patel/

Primary Examiner